

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mercedes Bayon	Team: Squad #13	CCRB Case #: 201405681	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/03/2014 9:30 AM	Location of Incident: § 87(2)(b)	Precinct: 40	18 Mo. SOL 12/3/2015	EO SOL 12/3/2015	
Date/Time CV Reported Tue, 06/03/2014 12:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/09/2014 6:36 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Jordan Castro	03544	942768	PSA 7
2. POM Jimmy Perez	08269	941242	PSA 7
3. POM Daniel Staple	14749	943844	PSA 7
4. POM Zain Woods	30046	951450	PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Ivan Gonzalez	00000	901620	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Staple	Force: PO Daniel Staple used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Daniel Staple	Force: PO Daniel Staple used a chokehold against § 87(2)(b)	§ 87(2)(b)
C.POM Zain Woods	Force: PO Zain Woods used physical force against § 87(2)(b)	§ 87(2)(b)
D.SGT Jordan Castro	Force: Sgt. Jordan Castro used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Daniel Staple	Force: PO Daniel Staple used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Jimmy Perez	Force: PO Jimmy Perez used physical force against § 87(2)(b)	§ 87(2)(b)
G.POM Zain Woods	Force: PO Zain Woods struck § 87(2)(b) with an asp.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H.POM Jimmy Perez	Abuse: PO Jimmy Perez threatened § 87(2)(b) with the use of force.	

Case Summary

On June 3, 2014, at approximately 9:30am, § 87(2)(b) (encl. 8a-8e) and § 87(2)(b) (encl. 9a-9g) were walking back to their apartment complex located at § 87(2)(b) in the Bronx. They had just dropped off two of their children at school. § 87(2)(b) and § 87(2)(b) reside inside of apartment 9C. Inside of apartment 9C were their other children, § 87(2)(b) and § 87(2)(b). § 87(2)(b) and § 87(2)(b) were alerted to the fact that there was a fire inside of their building. § 87(2)(b) and § 87(2)(b) had an ongoing problem with their neighbors in apartment 10C. One of the occupants from apartment 10C, § 87(2)(b) was observed by § 87(2)(b) placing a mattress outside of their apartment, 9C, and lighting it on fire. In response to the fire, NYPD and FDNY responded to the location and numerous residents exited the building.

According to § 87(2)(b) and § 87(2)(b) they informed Sgt. Jordan Castro that § 87(2)(b) observed § 87(2)(b) start the fire outside their apartment door. Following this, Sgt. Castro directed PO Daniel Staple and PO Jimmy Perez upstairs to get § 87(2)(b) and § 87(2)(b). PO Perez returned outside with § 87(2)(b) in handcuffs and remained with him standing outside of § 87(2)(b) near the curb. PO Staple exited the building with § 87(2)(b) and conducted a show-up to see if § 87(2)(b) would identify § 87(2)(b) as the arsonist; however, the show-up was negative as she stated she could not be sure if it was § 87(2)(b). At that point it was determined that § 87(2)(b) would be released. PO Perez walked § 87(2)(b) back into the building at which time § 87(2)(b) was exiting the building. § 87(2)(b) identified § 87(2)(b) by pointing him out to PO Perez stating that he recently filed a complaint regarding a robbery and identified § 87(2)(b) as the person who robbed him. At this time PO Perez told § 87(2)(b) to stop. § 87(2)(b) stated that he stopped and PO Perez took out a set of keys to release § 87(2)(b) from the handcuffs. § 87(2)(b) stated that he asked PO Perez why he was releasing § 87(2)(b) and PO Perez told him not to worry and then told him “stop right there.” § 87(2)(b) replied that he was not going to stop and went to walk away. § 87(2)(b) allegedly bumped his shoulders into § 87(2)(b) and § 87(2)(b) then pushed him back. § 87(2)(b) ran out of the building at which time § 87(2)(b) told § 87(2)(b) to stop and he immediately stopped running. At this time, PO Staple allegedly used his legs and tripped § 87(2)(b) to the ground and then sat on § 87(2)(b)'s back like a “UFC” fighter. § 87(2)(b) alleged that PO Staple had his legs around § 87(2)(b)'s waist squeezing him (**Allegation A**). He further alleged that PO Staple placed his hands around his neck in a chokehold position pulling § 87(2)(b)'s upper body backwards by his neck, which restricted § 87(2)(b)'s breathing (**Allegation B**). § 87(2)(b) removed PO Staple's hands from him and PO Staple then stood up. § 87(2)(b) remained on the ground on his knees and was told numerous times by Sgt. Castro, PO Perez, and PO Zain Woods to place his hands behind his back, but § 87(2)(b) told them that he was not going to do so. According to § 87(2)(b) she approached § 87(2)(b) and was then pushed backwards by PO Woods (**Allegation C**).

In response to § 87(2)(b)'s refusal to place his hands behind his back, Sgt. Castro allegedly punched § 87(2)(b) three to four times on the right side of his ribcage (**Allegation D**). At this same time, PO Staple allegedly kicked § 87(2)(b) twice in the face (**Allegation E**) while PO Perez allegedly kicked him on the left side of his head (**Allegation F**). § 87(2)(b) stated that he then went to stand up and was going to defend himself at which time PO Woods allegedly struck him on the right top side of his head with an asp once, which resulted in § 87(2)(b) becoming unconscious and begin bleeding from his head (**Allegation G**). § 87(2)(b) stated that he sustained a laceration as a result of being struck with the asp and received three stitches.

§ 87(2)(b) recalled waking back up at which time he was still lying on the ground and he was in handcuffs. He stated that EMS was present by this time. § 87(2)(b) tried to move and PO Perez allegedly stated, “If you move I will break you right here” (**Allegation H**). § 87(2)(b) admittedly made derogatory statements to PO Perez after which PO Perez allegedly approached § 87(2)(b) and stepped on his hands, which were in handcuffs and caused him pain (**Allegation E**).

§ 87(2)(b) s arrest report stated that he was charged with § 87(2)(b) (encl. 20a-21c).

§ 87(2)(b) s pre-hospital care report (see medical records folder) records indicated that § 87(2)(b) had a laceration to the right hairline and right parietal area and that the mechanism of injury was “fight/brawl and blunt trauma.” On § 87(2)(b), § 87(2)(b) sought follow-up care at § 87(2)(b) and his records indicate that he had head trauma (headaches) and shoulder pain.

This case was placed on the agency’s sensitive case list because it received media attention as there were several newspaper articles published regarding this incident (encl. 1a-1d).

Mediation, Civil, and Criminal Conviction Histories (encl. 28a-d)

This case was not mediation eligible. A Notice of Claim Inquiry was submitted to the Office of the Comptroller on April 15, 2015 and will be included in the casefile upon receipt. A search of Office of Court Administration records stated that there is “no defendant found on file” regarding

§ 87(2)(b) s arrests for this incident, arrest number § 87(2)(b) and § 87(2)(b) § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

A search of the Booking Arraignment and Disposition System revealed that on § 87(2)(b) § 87(2)(b) pled guilty to § 87(2)(b).

Civilian and Officer CCRB Histories

This is § 87(2)(b) and § 87(2)(b) s first CCRB complaint (encl. 3e-f).

PO Perez has been a member of service for eight years, and has two previous CCRB cases involving four allegations, none of which were substantiated. § 87(2)(g)
(encl. 3b).

PO Staple has been a member of service for eight years, and has six previous CCRB cases involving eleven allegations, none of which were substantiated. § 87(2)(g)
(encl. 3c).

Sgt. Castro has been a member of service for eight years, and has three previous CCRB cases involving six allegations. Two allegations in CCRB case number 200709473 were substantiated against him. The allegations included a retaliatory summons in which the CCRB recommended charges and the NYPD’s disposition was command discipline B and a stop allegation in which the CCRB recommended charges and the NYPD’s disposition was instructions (encl. 3a).

PO Woods has been a member for service for three years and has no previous CCRB complaints against him (encl. 3d).

Potential Issues

According to § 87(2)(b) and his pre-hospital care report (see medical records folder), he was taken to § 87(2)(b) for medical treatment. The undersigned investigator mailed a subpoena for the records from § 87(2)(b) and upon follow-up was informed that they did not have a subpoena on file. The undersigned investigator mailed a second subpoena and upon follow-up was informed that the subpoena was not in the system.

The undersigned investigator sent a subpoena to NYCHA Law Department to obtain video footage from the surveillance cameras at § 87(2)(b) however, the law department informed the CCRB that the video footage was deleted and no longer available.

On June 26, 2014, the undersigned investigator conducted field work in the vicinity of § 87(2)(b) and located various stores across the street from the incident location. However, none of these locations had surveillance cameras outside of the store covering the incident location.

§ 87(2)(b) provided four short videos one of which was 18 seconds, 17 seconds, 19 seconds, and 19 seconds consecutively. However, none of the videos show any part of the incident involving § 87(2)(b) or any of the allegations (encl. 7c-7f).

Field Work

On June 26, 2014, the undersigned investigator conducted field work in the vicinity of § 87(2)(b). The undersigned investigator visited several businesses located across the street from § 87(2)(b). None of the owners or employees at the locations observed the incident and did not have any surveillance cameras that covered the area where the incident occurred (encl. 7a).

Additionally, the undersigned investigator visited several apartments inside of § 87(2)(b) to speak with tenants who may have witnessed the incident. Several tenants stated that they did not recall the incident; however, one tenant from § 87(2)(b), § 87(2)(b) observed the incident from her apartment window and provided a statement to the undersigned investigator on the same date (encl. 7a).

Contact Attempts to Additional Civilians

§ 87(2)(b) and § 87(2)(b) identified § 87(2)(b) and § 87(2)(b) as their daughters who were home inside of their apartment during the incident. They stated that at some point they came downstairs and witnessed the force used against § 87(2)(b). On June 24, 2014, the undersigned investigator called § 87(2)(b) and § 87(2)(b) to schedule them for an interview. § 87(2)(b) answered the telephone and scheduled an interview for herself, § 87(2)(b) and § 87(2)(b) for June 24, 2014 in the field. However, on the same date, § 87(2)(b) contacted the investigator and stated that they could all appear at the CCRB on July 18, 2014. On July 18, 2014, § 87(2)(b) and § 87(2)(b) missed their scheduled interviews without calling to cancel or reschedule and missed appointment letters were mailed. Between July 21, 2014 and July 28, 2014, the undersigned investigator mailed § 87(2)(b) and § 87(2)(b) please call letters and also called them twice, but there was no answer and no voicemail system on each occasion. On August 12, 2014

the undersigned investigator called § 87(2)(b) and § 87(2)(b) at which time § 87(2)(b) answered the telephone stating that she would have her sisters contact the CCRB and she scheduled an interview for herself for August 25, 2014. On August 25, 2014, Ranics § 87(2)(b) missed her scheduled interview without calling to cancel or reschedule. On September 10, 2014, the undersigned investigator called § 87(2)(b) and § 87(2)(b) but there was no answer and no voicemail engaged. None of the letters were returned to the CCRB by the United States Postal Service (encl. 25a-Q).

Between July 1, 2014 and July 7, 2014, the undersigned investigator mailed § 87(2)(b) a please call letter and also called him twice leaving messages with his grandmother on each occasion. On July 9, 2014, § 87(2)(b) called the undersigned investigator at which time he provided a brief telephone statement and scheduled an interview for July 21, 2014. On July 21, 2014, § 87(2)(b) missed his scheduled interview without calling to cancel or reschedule and a missed appointment letter was mailed to his home address. On July 28, 2014, the undersigned investigator sent § 87(2)(b) a please call letter and also called him, but there was no answer and no voicemail system engaged. Between August 12, 2014 and September 10, 2014, the undersigned investigator called § 87(2)(b) but there was no answer and no voicemail system engaged. None of the letters were mailed back to the CCRB by the United States Postal System (encl. 25a-Q).

§ 87(2)(b) was identified as a witness via newspaper articles (encl. 1d). A search for contact information for § 87(2)(b) revealed a telephone number and address; however, without additional information it is unknown if this information was correct for the witness identified via the media. Between July 1, 2014 and July 7, 2014, the undersigned investigator mailed § 87(2)(b) a please call letter and also called him twice; however, there was no answer and no voicemail engaged on either occasion. On July 28, 2014, the undersigned investigator mailed § 87(2)(b) a second please call letter and called him at which time a male answered the telephone and stated that the investigator had an incorrect telephone number for § 87(2)(b). None of the letters were returned to the CCRB by the United States Postal Service (encl. 25a-Q).

Findings and Recommendations

Allegations Not Pleaded

Although § 87(2)(b) alleged that PO Perez punched § 87(2)(b) in the face, a physical force allegation (punch) was not pleaded against PO Perez as § 87(2)(b) did not allege this.

Explanation of Subject Officer Identification

§ 87(2)(b) identified PO Staple, PO Perez, Sgt. Castro, and PO Woods by name during his in-person CCRB interview. Each of the aforementioned officers acknowledged their involvement in this incident and interaction with § 87(2)(b). Therefore, they have been listed as subject officers and the respective allegations as alleged by § 87(2)(b) have been pleaded against them.

§ 87(2)(b) stated that she approached § 87(2)(b) who was on the ground at which time an officer allegedly pushed her. § 87(2)(b) described this officer as a black male who was tall and approximately 200 pounds with glasses. At the time § 87(2)(b) approached § 87(2)(b) the only black male officer interacting with § 87(2)(b) at that time was PO Woods. Additionally, the physical description provided by § 87(2)(b) fits PO Woods physical appearance as a black male in glasses who stands about 6'1" tall and weighs 250 pounds. Therefore, a physical force allegation has been pleaded against PO Woods.

Recommendations

Allegation A: Force: PO Daniel Staple used physical force against § 87(2)(b)

It is undisputed that PO Staple used some amount of force to restrain § 87(2)(b) and ultimately effect his arrest. According to § 87(2)(b) (encl. 9a-g), as he was exiting § 87(2)(b), he observed PO Perez entering the building with § 87(2)(b) and seemingly removing the handcuffs from § 87(2)(b). At this time, § 87(2)(b) began pointing at § 87(2)(b) and exclaiming, “That’s him!” PO Perez told § 87(2)(b) to stop, but § 87(2)(b) turned to walk away. § 87(2)(b) then allegedly pushed § 87(2)(b) with his shoulders and § 87(2)(b) then pushed him back. § 87(2)(b) then ran out of the building towards § 87(2)(b) who was speaking with PO Staple outside. § 87(2)(b) told § 87(2)(b) to stop running and he complied. PO Perez then exclaimed, “Get him!” PO Staple then allegedly ran towards § 87(2)(b) and used his legs to trip § 87(2)(b) causing him to fall to the ground face down, which § 87(2)(b) corroborated during her CCRB interview statement. PO Staple then allegedly straddled § 87(2)(b) from behind with PO Staple’s legs wrapped around § 87(2)(b)’s waist and began squeezing § 87(2)(b) causing him pain. During § 87(2)(b)’s CCRB interview (encl. 8a-e) she described that PO Staple “mounted” § 87(2)(b)’s back from behind, but made no mention of him squeezing § 87(2)(b). According to § 87(2)(b) (encl. 10a-c) she observed two male officers restraining § 87(2)(b) but then stated that she observed one officer with his knee in § 87(2)(b)’s back holding him to the ground and another with his arm around § 87(2)(b)’s neck. § 87(2)(b) could not describe either officer. Although § 87(2)(b) did not provide a sworn statement, during a telephone statement he stated that as PO Perez walked him into the building § 87(2)(b) was exiting the building. He stated that § 87(2)(b) allegedly pushed PO Perez and then took off running out of the building. He observed § 87(2)(b) fall and hit his head on the ground from which he sustained a laceration to his head (encl. 6d).

According to PO Perez (encl. 17e-h) and PO Staple (encl. 16d-f), as § 87(2)(b) was being brought back into the building to be released, he identified § 87(2)(b) who was exiting the building, as a male who had robbed him several days prior to this incident. PO Perez attempted to stop and apprehend § 87(2)(b) based on § 87(2)(b) identifying him; however, § 87(2)(b) ran out of the building. PO Perez then shouted to PO Staple, “Staple that’s him. Grab him.” According to PO Staple, as § 87(2)(b) ran towards him, he stepped aside and turned to grab § 87(2)(b). As PO Staple was doing this, § 87(2)(b) tripped over his leg and fell to the ground. Since PO Staple was holding onto § 87(2)(b) PO Staple also fell to the ground. PO Staple fell underneath § 87(2)(b) with his back to the ground and § 87(2)(b)’s back against his chest. As § 87(2)(b) was on top of PO Staple, § 87(2)(b) was moving around to get away and PO Staple then wrapped his legs with § 87(2)(b)’s legs so that they were entwined and § 87(2)(b) could not move. PO Staple also had his hands wrapped across § 87(2)(b)’s chest. He held onto him until Sgt. Castro and PO Perez approached to remove § 87(2)(b) from being on top of PO Staple. According to PO Perez and Sgt. Castro, when § 87(2)(b) ran out of the building he ran into PO Staple and they both fell to the ground. Sgt. Castro (encl. 14a-h) and PO Perez acknowledged that PO Staple fell beneath § 87(2)(b) and then wrapped his legs and arms around him to hold onto him.

Patrol Guide Procedure 203-11 states, “only that amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally ill or emotionally disturbed person into custody” (encl. 2a-b).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

Allegation B: Force: PO Daniel Staple used a chokehold against § 87(2)(b)

According to § 87(2)(b) (encl. 9a-g), after PO Staple wrapped his legs around § 87(2)(b) PO Staple placed his hands around § 87(2)(b)'s neck in a chokehold position and began pulling § 87(2)(b)'s body backward by his neck, which restricted § 87(2)(b)'s breathing. § 87(2)(b) reached his hand to PO Staple's hand around his neck and pulled his hand off of his neck and PO Staple subsequently got off of § 87(2)(b). This was corroborated by § 87(2)(b) who stated that PO Staple placed his hands around § 87(2)(b)'s neck and choked him. Similarly, during § 87(2)(b)'s CCRB statement (encl. 10a-c) she stated that she observed from her second floor window, an officer with his arm around § 87(2)(b)'s neck while another officer had his knee in § 87(2)(b)'s back, but she could not provide a description of these officers.

During PO Staple's CCRB statement (encl. 16d-f), he stated that after he and § 87(2)(b) fell to the ground, he intertwined his legs with § 87(2)(b)'s legs and crossed his arms around § 87(2)(b)'s chest. He denied that he ever made contact with § 87(2)(b)'s neck or throat and denied placing him in a chokehold. Similarly, PO Perez (encl. 17e-h) and Sgt. Castro (encl. 14a-h) denied that PO Staple made contact with § 87(2)(b)'s neck or that PO Staple placed him in a chokehold, while PO Woods (encl. 18d-f) and Lt. Gonzalez (encl. 19d-f) testified that they never observed PO Staple involved in the physical apprehension of § 87(2)(b).

According to Patrol Guide Procedure 203-11, members of the New York City Police Department will not use chokeholds. A chokehold includes, but is not limited to, any pressure of the throat or windpipe, which may prevent or hinder breathing or reduce intake of air (encl. 2a-b).

Despite the investigators attempts to obtain additional statements, neither § 87(2)(b) or § 87(2)(b) cooperated with the investigation. During the CCRB interviews of EMT's § 87(2)(b) (encl. 13a-d), § 87(2)(b) (encl. 12a-d), and § 87(2)(b) (encl. 11a-d), they testified that they did not observe any force being used against § 87(2)(b) however, they arrived at the end of the incident after the alleged physical force was used against § 87(2)(b).

§ 87(2)(g)

[REDACTED]

§ 87(2)(b)

It is in dispute whether PO Woods pushed § 87(2)(b) § 87(2)(b) (encl. 8a-e) stated that she was standing approximately five feet away from § 87(2)(b) while he was on the ground and PO Staple allegedly had him in a chokehold position. § 87(2)(b) alleged that PO Woods approached her and pushed her backwards with open palms in her upper chest. She described the push as forceful and it resulted in § 87(2)(b) falling backwards onto the ground. During § 87(2)(b)'s CCRB statement (encl. 9a-g) he made no mention of this force. However, § 87(2)(b) testified that officers had pushed unidentified persons in the crowd (encl. 10a-c).

According to PO Woods (encl. 18d-f), he conducted crowd control in that there were several women in close proximity to when § 87(2)(b) was being apprehended on the ground. He stated that he instructed the individuals to stay back several times, but they did not comply and were “on top” of the officers effecting the arrest. PO Woods did not recall any specific female, but stated that he used “minor force” to push the women “back some” so that they were not interfering with the arrest. He stated that the females immediately walked around him and re-approached the arrest that was taking place and with open palms he guided the women away from the arrest of § 87(2)(b). During the respective CCRB interviews of Lt. Gonzalez (encl. 19d-f), PO Staple (encl. 16d-f), PO Perez (encl. 17e-h), and Sgt. Castro (encl. 14a-h), they denied observing any officer push any female at any time.

§ 87(2)(g)

§ 87(2)(b)

It is undisputed that Sgt. Castro punched § 87(2)(b) § 87(2)(b) (encl. 9a-g) stated that after PO Staple removed himself from holding onto § 87(2)(b) § 87(2)(b) remained on the floor on his knees. During this time he heard Sgt. Castro, PO Perez, and PO Woods yelling at him to put his hands behind his back. § 87(2)(b) admittedly refused to place his hands behind his back and told the officers that he did not have to be handcuffed because he was not under arrest. In response to § 87(2)(b) the officers again continued to direct him to place his hands behind his back. Following this, Sgt. Castro allegedly punched § 87(2)(b) three to four times on the right side of his ribcage with his fist, which § 87(2)(b) corroborated during her CCRB statement (encl. 8a-e). Similarly, during § 87(2)(b)'s CCRB interview (encl. 10a-c), she testified that she observed PO Perez punch § 87(2)(b) in the face, but never made mention of an officer fitting Sgt. Castro's physical description punching § 87(2)(b) as both Sgt. Castro and PO Perez's physical appearances are drastically different.

During Sgt. Castro's CCRB statement (encl. 14a-h) he stated that while PO Staple and PO Perez were trying to handcuff § 87(2)(b) who was on the ground and resisting, he, PO Staple, and PO Perez continuously gave § 87(2)(b) verbal commands to give them his hands. § 87(2)(b) responded to their requests, "Fuck you. I'm not going to jail." Sgt. Castro again requested his hands during which time PO Staple was still lodged underneath § 87(2)(b) and PO

Staple began screaming about being uncomfortable. Sgt. Castro testified that § 87(2)(b) was stiffening his arms and putting his arms by his crotch so that the officers could not handcuff him. After § 87(2)(b)'s continued reluctance to comply, Sgt. Castro punched him in his side near his ribcage once in an attempt to get § 87(2)(b) to comply, which was corroborated by PO Staple. § 87(2)(b) then stated, "Fuck you. I'm not going to give you my hands. I am not going to jail." He was then told to stop resisting and asked again for his hands. Sgt. Castro went on to punch § 87(2)(b) near his ribcage a second time, but § 87(2)(b) did not give up his hands. As Sgt. Castro went to punch him a third time in his side, § 87(2)(b) rolled over and moved in a manner resulting in Sgt. § 87(2)(b) accidentally striking § 87(2)(b) on the forehead, which Sgt. Castro stated may have resulted in § 87(2)(b) sustaining a laceration. According to all officer testimony, § 87(2)(b) was resisting and combative. PO Perez (encl. 17e-h) testified that § 87(2)(b) was kicking and punching at the officers and acting in a violent manner; however, he did not see what Sgt. Castro was doing and did not observe him punch § 87(2)(b). Similarly, neither, PO Woods (encl. 18d-f), or Lt. Gonzalez (encl. 19d-f) observed Sgt. Castro punch § 87(2)(b).

Patrol Guide Procedure 203-11 states, "only that amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally ill or emotionally disturbed person into custody" (encl. 2a-b).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegation G: Force: PO Woods struck § 87(2)(b) with an asp.

§ 87(2)(b) (encl. 9a-g) alleged that at the time the officers were directing him to place his hands behind his back, he was admittedly refusing to comply with their orders. He alleged that he was kicked and punched after which he then stated, "Oh ya'll kicking and ya'll hit me. Ok. Like a United States Citizen, I will defend myself. You broke the law in my favor because I will defend myself like a United States Citizen." After making the aforementioned statement, § 87(2)(b) attempted to get up from the ground at which time PO Woods allegedly struck him once on the top right side of his head with an asp; however, the ambulance call report (see medical records folder) and EMT § 87(2)(b) (encl. 11a-d) indicated that § 87(2)(b) informed medical personnel that he was hit on the back of the head with a flashlight, which he never alleged to the CCRB. § 87(2)(b) informed the CCRB that following this he began to bleed from his head and went unconscious until EMS arrived on the scene. This was corroborated by § 87(2)(b) (encl. 8a-e). During § 87(2)(b)'s CCRB interview (encl. 10a-c), she made no mention of observing any officer strike § 87(2)(b) with an asp or any object; however, she stated that she observed a lot of blood on the ground where § 87(2)(b) was being apprehended and further stated that she observed PO Perez punching him in the face. During § 87(2)(b)'s telephone statement (encl. 6d), he stated that as § 87(2)(b) ran out of the building he fell and hit his face on the ground, which resulted in the laceration. He further stated that the laceration on § 87(2)(b)'s face was not the result of any officer's use of force against him.

During PO Woods' CCRB interview (encl. 18d-f), he denied engaging in § 87(2)(b)'s arrest or ever taking out his asp or striking § 87(2)(b) with any object, which was corroborated by all other officers interviewed by the CCRB. No officer testified that they or any officer struck § 87(2)(b) in the head with an asp and no officer testified to observing § 87(2)(b) lose consciousness at anytime, which was corroborated by EMT's § 87(2)(b) (encl. 12a-d) and § 87(2)(b) (encl. 11a-d). PO Staple (encl. 16d-f), PO Perez (encl. 17e-h), Lt. Gonzalez (encl. 19d-f), and Sgt. Castro (encl. 14a-h) testified that they observed § 87(2)(b) bleeding; however, neither of them could identify where he was specifically bleeding from or how he sustained the injury from which he was bleeding. According to Sgt. Castro (encl. 14a-h), while he was striking § 87(2)(b) in his ribcage to gain compliance, he accidentally struck § 87(2)(b) in the forehead with his fist as a result of § 87(2)(b) moving his body around. Sgt. Castro stated that he had not seen § 87(2)(b) bleeding up to this point; however, after striking § 87(2)(b) again shifted his body away and then looked back towards Sgt. Castro at which point Sgt. Castro observed him bleeding on his face. Sgt. Castro surmised that § 87(2)(b) began bleeding as a result of his accidental punch.

§ 87(2)(g)

Allegation E: Force: PO Daniel Staple used physical force against § 87(2)(b)

Allegation F: Force: PO Jimmy Perez used physical force against § 87(2)(b)

Allegation H: Abuse of Authority: PO Jimmy Perez threatened § 87(2)(b) with the use of force.

It is in dispute whether PO Staple and PO Perez kicked § 87(2)(b) and whether PO Perez stated, "If you make any move I will break you right here."

§ 87(2)(b) (encl. 9a-g) alleged that while he was on the ground refusing to give his hands to be handcuffed, PO Staple allegedly kicked him in the face twice, after which PO Perez allegedly kicked him on the left side of his head. As previously analyzed, § 87(2)(b) alleged that he was struck with an asp and then went unconscious. Following this he woke up in handcuffs still lying on the ground, and surrounded by EMS at which time he attempted to move. § 87(2)(b) alleged that when he attempted to move, PO Perez stated, "If you move I will break you right here." § 87(2)(b) admittedly made statements to PO Perez with regard to PO Perez's wife and mother after which PO Perez allegedly approached § 87(2)(b) and stepped on his hands while they were in handcuffs. According to § 87(2)(b) (encl. 8a-e), PO Perez kicked § 87(2)(b)'s hand and during § 87(2)(b)'s CCRB statement, she made no mention of the above allegations (encl. 10a-c).

During PO Staple's CCRB interview (encl. 16d-f) he denied that he kicked § 87(2)(b) at anytime or observed any officer kick § 87(2)(b). Similarly, PO Perez (encl. 17e-h) denied that he kicked § 87(2)(b) or observed any officer do so. Further, PO Perez denied telling § 87(2)(b) "If you make any move I will break you right here," and denied stepping on § 87(2)(b)'s hands. The above was corroborated by Lt. Gonzalez (encl. 19d-f), Sgt. Castro (encl. 14a-h), and PO Woods (encl. 18d-f). During EMTs § 87(2)(b) (encl. 11a-d), § 87(2)(b) (encl. 13a-d), and § 87(2)(b)'s (encl. 12a-d) CCRB interviews, they did not observe or hear any of the above allegations. Despite the undersigned investigators attempts to

obtain interviews from § 87(2)(b) and § 87(2)(b)
they ultimately did not cooperate with the investigation. § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date